



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

EO-2
970463

March 10, 1998

Reply To
Attn Of: ECO-088

Ref: 97-013-BLM

Gene Terland
Bureau of Land Management
Alaska State Office
222 W. 7th Avenue
Anchorage, Alaska 99513-7599

Dear Mr. Terland:

The Environmental Protection Agency (EPA) has completed it's review of the draft Integrated Activity Plan/Environmental Impact Statement (IAP/EIS) for the **Northeast National Petroleum Reserve-Alaska** in accordance with our authorities and responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. The draft EIS evaluates five alternatives presently being considered as management options for approximately 4.6 million acres of land managed by the Bureau of Land Mangement (BLM) in the northeast portion of the National Petroleum Reserve-Alaska (NPR-A). The draft EIS does not identify a preferred alternative.

Based on our review and evaluation of the draft IAP/EIS, we have assigned the following ratings based on the potential environmental impacts of each of the alternatives and the adequacy of the impact statement in evaluating and disclosing the impacts of the alternatives:

ALTERNATIVE	RATING
A (No leasing in planning area)	LO (Lack of Objections)
B (Leasing available in roughly 50% of planning area)	EC-2 (Environmental Concerns - Insufficient Information)
C (Leasing available in roughly 75% of planning area)	EC-2 (Environmental Concerns - Insufficient Information)
D (Leasing available in roughly 90% of planning area)	EO-2 (Environmental Objections -Insufficient Information)
E (Leasing available in entire planning area)	EO-2 (Environmental Objections -Insufficient Information)

EPA has no objections with Alternative A, as it would result in the planning area remaining closed to potential oil and gas exploration and development and no major environmental impacts would be expected. We have environmental concerns with Alternatives B and C, as they would result in the opening of roughly 50 and 75 percent of the planning area to potential exploration and production, with potentially significant environmental impacts resulting in the open portion of the planning area. We have environmental objections to Alternatives D and E, in that they would result in the opening of 90 percent and 100 percent of the planning area to

potential exploration and development, with potentially significant environmental impacts resulting throughout the planning area (particularly in the Teshekpuk Lake Watershed). We believe that additional information is needed in the EIS to understand the technical bases for stipulations proposed to protect resources within the planning area and how they would be implemented to ensure that those resources would be protected. We also believe that the EIS should provide additional information related to the roles and responsibilities of other permitting agencies in oil and gas exploration and development within the planning area.

A summary of our comments and an overall rating of EO-2 will be published in the *Federal Register*. We have enclosed a copy of the rating system used in conducting our review for your reference.

The issues/concerns that we believe should be addressed in the final EIS are discussed in greater detail in the enclosure to this letter.

We are interested in working closely with the BLM in successfully resolving the issues we have identified prior to the issuance of the final EIS. I urge you to contact Bill Ryan of my staff at (206) 553-8561 or Ted Rockwell in our Anchorage office (907-271-3689) at your earliest opportunity to discuss our comments and how they might best be addressed in the final EIS for the project.

Thank you for the opportunity to provide comments on the draft IAP/EIS.

Sincerely,



Richard B. Parkin, Manager
Geographic Implementation Unit

Enclosures

cc: Mary Weger, US ACOE
Philip Martin, USFWS
Jeanne Hanson, NMFS
Jack Winters, ADF&G

**EPA Comments on the
Draft Integrated Activity Plan/Environmental Impact Statement
for the
Northeast National Petroleum Reserve-Alaska**

Need for Action/National Energy Needs

Section I of the draft Environmental Impact Statement (EIS) suggests that leasing within the National Petroleum Reserve-Alaska (NPR-A) is being considered at this time due to increased interest by the oil industry as their infrastructure has come closer to the Reserve's boundary. The draft EIS also states that NPR-A is to be developed "in a manner consistent with the total energy needs of the Nation," as specified in the Naval Petroleum Reserves Production Act (NPRPA) of 1976. Acknowledging the current level of interest in pursuing leasing within the Reserve, we believe that the EIS must provide the public and the decision maker with a discussion/analysis of how exploration/production activities on the Reserve align with the energy needs of the country. Without such a discussion/analysis, it is not clear that opening up the northeast portion of NPR-A to leasing and potential production would be consistent with NPRPA. We believe that this discussion/analysis is a fundamental element of the debate over opening the Reserve to exploration and development (identified on page I-9 as a significant issue to be addressed in the EIS). Consequently, we recommend that Section I of the EIS be expanded to include a discussion/evaluation of "total energy needs of the Nation" and describe how oil exploration and potential production within the Reserve is consistent with those needs.

Effects Analyses

We find it extremely difficult to determine the potential environmental consequences of each alternative presently under consideration, and how the impacts would differ under each alternative. The effects analyses (see Section IV) are presented in a fashion that is extremely difficult to extract relevant information which would allow the reader to compare the consequences of each alternative in a meaningful way. Of the 264 pages dedicated to the "environmental consequences" of the alternatives, we were unable to find a single table or figure that allows the reader to understand the environmental impacts of any of the alternatives or how the environmental impacts of the alternatives compare to each other. The "wall-to-wall" text contained in Section IV (much of which appears to be redundant) is not an effective mechanism for revealing the environmental consequences of the alternatives under consideration. We recommend that Section IV of the EIS undergo a significant amount of editing and reformatting to make the EIS useful as a disclosure document and consistent with the implementing regulations for NEPA (see 40 CFR 1502.7).

It is difficult to determine if the effects analyses assume that all stipulations presented in Section II would be applied. Because we view the stipulations as the mitigation measures that are intended to protect resources in the planning area, we would expect the EIS to reflect impacts with the implementation of all stipulations. However, the use of language such as "to the degree they (stipulations) are implemented" and "the absence of these stipulations may increase adverse

effects” in the document suggests that all stipulations would not be implemented if leasing and/or development was to take place on the Reserve. As a result, we cannot determine if, or when, stipulations would be applied to activities on the Reserve and how the effects analyses reflect this apparent incomplete implementation of the stipulations. We recommend that the EIS be revised to clearly indicate the level of stipulation implementation that has been assumed in the impact analyses.

Stipulations

General Comments

We find that the discussion in the first paragraph on page II-27 related to how the stipulations presented in the draft IAP/EIS would be applied is confusing and misleading. The EIS indicates that the majority of the stipulations presented “would be applied to applicable individual permits.” We interpret this statement to mean that the applicable stipulations would be attached only to permits that would be issued by the Bureau of Land Management (BLM), as the Bureau has no authority to define conditions that would be attached to permits issued by other agencies under other legal authorities. Oil and gas leasing and development requires permits and/or approvals from other agencies and permit conditions imposed by these agencies may be significantly different, and potentially more stringent, than those presented in the draft EIS. To ensure that the public and the decision maker are provided with a clear understanding of how the stipulations would be applied, we recommend that the EIS explicitly identify the BLM permits to which the stipulations would be attached, as well as identify permits that would potentially be issued by other agencies. The EIS should also clearly indicate that permit conditions imposed by other agencies could be significantly different from stipulations imposed by the BLM.

We recommend that the final set of stipulations presented in the final IAP/EIS and adopted in the Record of Decision (ROD) consistently use the word “shall” to clearly indicate that the elements of each stipulation must be met. As presently written, the stipulations presented in the draft EIS are inconsistent in their use of “shall,” “will,” and “would.”

Numerous stipulations contain quantitative values (e.g., buffer widths/setback distances, water depths) or dates that directly affect how and when stipulations would be implemented. We were unable, in most cases, to locate information in the EIS that provides the basis for these values and dates. We recommend that the EIS include the basis for the specified values and dates contained in the stipulations to allow for meaningful evaluation of impacts to the resources they are intended to protect.

In general, it is unclear that the appropriate resource/regulatory agencies will be consulted as decisions are made on how stipulations are to be implemented. In some cases, multiple agencies are identified, in others a single agency is identified, and in other cases, no consultation is required. We recommend that the final set of stipulations ensure that the appropriate agencies (those with resource protection and/or regulatory/permitting responsibilities) are consulted in the determination of how the stipulations on BLM permits are implemented. The stipulations where it is not clear if the appropriate agency(ies) has/have been identified, are highlighted below.

Management Restriction Waiver f. (page II-27) - We strongly object to the inclusion of this waiver in the IAP/EIS because it suggests that BLM has sole authority to determine when activities in wetlands would be allowed without ensuring that impacts have been evaluated using the avoidance, minimization and mitigation hierarchy contained in the EPA 404(b)(1) Guidelines (see 40 CFR 230). Pursuant to Section 404 of the Clean Water Act, discharges of dredged or fill materials to waters of the U.S. (including wetlands) would require permits from the Army Corps of Engineers that have been developed in a manner consistent with the EPA 404(b)(1) Guidelines. Consequently, because BLM does not have the authority to exempt activities in wetlands from regulatory requirements, we strongly recommend that this waiver be deleted from the IAP/EIS.

Stipulation 1 - We recommend that the IAP/EIS include a list of feasible precautions that shall be used to avoid attracting wildlife to food and garbage.

Stipulation 13 b. - Should the Alaska Department of Environmental Conservation (ADEC) be the only agency consulted when determining if discharge of drilling muds to reserve pits would be allowed?

Stipulation 13 c.(4) - Should ADEC be the only agency consulted?

Stipulation 16 - How and who will determine the lakes to be used for water withdrawal drawdown? How, when, and by whom will lakes be surveyed to determine their depth or if fish exist in them? Will there be consultation with the appropriate resource and regulatory agencies before lakes would be drawn down? What is the basis for the "7 feet deep" criteria being used in this stipulation, and how does it relate to protection of water quality? The EIS should be revised to clearly address these questions.

Stipulation 17 - We recommend that an analysis/demonstration of hydrologic functions be required and approved, with appropriate consultation, before any water is extracted from lakes used by molting geese that are located within the Goose Molting Habitat LUEA.

Stipulation 20 - We recommend that this stipulation clearly identify the elements that are applicable to wintertime travel exclusively and those applicable to summertime travel. As presently written, it is not clear which stipulations would apply to wintertime and summertime conditions.

Stipulation 20 j. - Based on information discussed on page IV-B-3, this stipulation does not mitigate damage to vegetative cover and water quality. Consequently, we recommend that this stipulation be modified to require a minimum snow depth of 10 inches (in combination with 12 inches of frozen tundra) before ground operations shall commence to ensure that water quality is adequately protected.

Stipulation 24 - This stipulation appears applicable only to Alternatives D and E. We recommend that the EIS clarify the alternative(s) to which this stipulation applies.

- Stipulation 25 - Should FWS be the only agency consulted?

Stipulation 26 - Should the State and NSB be the only entities consulted?

Stipulation 27 - Should the State and NSB be the only entities consulted?

Stipulations 30, 32, 33, 34 - Should FWS be the only agency consulted?

Stipulations 37, 38 - Should ADF&G be the only agency consulted?

Stipulation 39 - This stipulation indicates that, on a case-by-case basis, essential pipeline and road crossings will be permitted through setback areas when no other suitable sites are available. We recommend that this stipulation be modified to include consultation with the appropriate regulatory and resource agencies prior to approving such crossings.

- Stipulation 40 - Should ADF&G be the only agency consulted?

Stipulation 41 - We were unable to determine the basis for the 500 foot setbacks from active floodplains and fish-bearing lakes. Consequently, we are unable to determine the effectiveness of this stipulation in protecting water quality and fish habitat. The basis for the setbacks and their implications on water quality and fish habitat should be discussed in the EIS.

- Stipulation 42 - Should ADF&G be the only agency consulted?

Stipulation 43 - Placement of fill in waters of the U.S. (including wetlands) would require a permit from the Army Corps of Engineers (Corps). Activities impacting waters of the U.S. should be coordinated with the Corps and EPA.

Stipulation 44 - For disclosure purposes and to allow the public and decision maker to evaluate their effectiveness of Best Management Practices (BMPs) in protecting water quality, we recommend that the BMPs be included as an appendix to the EIS.

Stipulation 48 - Placement of fill in waters of the U.S. (including wetlands) would require a permit from the Army Corps of Engineers (Corps). Activities impacting waters of the U.S. should be coordinated with the Corps and EPA.

Stipulation 59 - Consultation should include all agencies involved in approving the abandonment of a development. This includes the Army Corps of Engineers and EPA.

Spill Prevention and Response

Page IV-A-38 of the draft EIS references BLM oil and gas operating regulations found in 43 CFR 3160. It also briefly mentions EPA regulations found in 40 CFR 110 and 300 and states that these regulations deal with responses to spills or releases of oil and gas. It does not,

however, appear that the authors have read or researched these regulations.

Although the National Contingency Plan (NCP) is contained in 40 CFR 300 and it does indeed focus on response to spills, it is the blueprint of the Federal Government's Response System and contains the roles and responsibilities of governmental agencies in a spill response role. A more applicable regulation to cite would be 40 CFR 112 which contains regulations requiring industry to prepare and implement both Spill Control and Countermeasures Plans, (SPCC) and Facility Response Plans (FRPs). Requirements for SPCCs have existed since the mid 1970s and are intended to ensure that industry-operated facilities design and implement oil spill prevention measures which will prevent spills to waters of the U.S. including Tundra environments. The FRP regulations are relatively recent (1995 time frame) and arose from the passage of the Oil Pollution Act of 1990 (OPA 90) which amended the Clean Water Act and has had a major impact upon all aspects of the oil industry. OPA 90 and EPA's implementing FRP regulations require owners and operators of oil exploration and production facilities to prepare and implement oil spill contingency plans which among other things are intended to insure that the responsible parties for a spill area sufficient prepared to respond to a "worst case discharge" with adequate numbers of personnel, equipment and methods approved by federal and state On-Scene Coordinators.

The EIS also states "that if a spill or release of petroleum fluids or chemicals used on the petroleum industry on the lease, unit, or participating area, BLM has the authority to cite the operator and direct the cleanup. However, a cleanup will be done in cooperation with other Federal or State Agencies." The EIS also mentions ADEC's role as the On-Scene Coordinator for state lands and the USCG's responsibility for directing response to spill cleanup on areas of tidewater and the seas. No mention is made of EPA's role.

The National Contingency Plan established lead and supporting roles for federal agencies. The NCP established an On-Scene Coordinator who is an EPA official for the "inland zone" and a U.S. Coast Guard Officer for the "coastal zone." On the Alaska North Slope, the U.S. Coast Guard and the U.S. Environmental Protection Agency have a long standing Memorandum of Agreement that delineates the Inland zone and Coastal zones for spill response purposes. A 1,000 yard boundary line drawn inland paralleling the coast's mean low water line separates the coastal zone from the inland zone.

With the passage of OPA 90, the Federal On-Scene Coordinator is empowered as the single individual representative of the President of the United States, and responsible for directing all oil spill response activities. OPA 90 mandates that "area" contingency plans be developed by federal and state agencies to identify working relationships and organizations used to manage a governmental spill response, be it the oversight and direction of a responsible industry spiller, or a government lead response action. Industry response plans must be consistent with government area plans.

In Alaska, the EPA and U.S. Coast Guard, in their capacities as the lead federal agencies

for spill response, have developed a Unified Plan for Preparedness to Oil Discharges and Hazardous Substance Releases with the State of Alaska's Department of Environmental Conservation. Additionally the Alaska Regional Response Team, of which the Department of Interior is a member, has adopted the Unified Plan and its contents and organizational concepts. The Unified plan uses the Incident Command System and Unified Command for management of a spill. The ICS allows for multi-jurisdictional incidents to be coordinated and responded to in an efficient and unified fashion. For oil spill response, the Unified Commanders is the Federal On-Scene Coordinator (either a USCG or EPA official), the State On-Scene Coordinator (ADEC representative), a local On-Scene Coordinator (North Slope Borough representative) and the spiller or responsible party (RP) who normally fills the role as incident commander. Land management agencies such as BLM would be invited to participate in appropriate sections such as operations and planning and on a Multi-Agency Committee (MAC) if the incident warranted the formation of one. This structure and response organization has been used statewide since the Exxon Valdez spill and has been a model for National adoption.

In light of the proceeding description of the government's response system and current regulations, EPA recommends that the EIS be rewritten to accurately reflect oil spill prevention and response requirements for the industry and government.

Development Scenarios

We believe that the use of the ARCO Alpine Development is inappropriate for evaluating potential development in NPR-A because the Alpine development is located in a unique location; the active floodplain of a major arctic river. This location has virtually nothing in common with the area of NPR-A being considered in this EIS. If the Alpine development is appropriately sensitive to the Colville River delta that it is situated within, then it is not an analog for on-shore development in NPR-A. Conversely, if it is appropriate for NPR-A development then it is not appropriate for development in the Colville River delta. It's only utility is in the concept of minimizing environmental impact.

We caution the BLM in using Alpine as an example to follow in that there is no consideration of the distances from major infrastructures that development in NPR-A will have to face. Stipulation 27 mentions causeways, and docks, yet there is no such provision in the Alpine development scenario. Thus, the following questions remain unanswered: how will large equipment be brought to NPR-A? Where will docks, causeways, or other structures need to be built? Where will equipment, supplies, etc. be stored between drilling seasons? What equipment? What supplies? Fuel, lubricants, other chemicals? The industry already is reluctant to move drill rigs the 35 miles back to the Deadhorse area from the eastern prospects such as Sourdough. Industry wished to keep as much equipment as possible on location so that they are not subject to the need to build ice roads to move equipment from Deadhorse to their exploration site. This provides them a few extra days of drilling a few extra days instead of traveling. NPR-A development is even further away from the existing development where storage could occur. It is only reasonable to assume that industry will want to store their exploration equipment and some supplies in NPR-A. These issues/questions, and their associated impacts, should be addressed in

the EIS.

Wetlands

The draft IAP/EIS contains no information related to wetlands, amount of wetlands, location of wetlands, types of wetlands, or functions of wetlands. A functional assessment of wetland resources, such as the Hydrogeomorphic Methodology (HGM) agreed to by EPA, DOI, DOAg and DOD, needs to be conducted for the areas being considered for lease sale and used to develop reasonable mitigative measures and stipulations. This information should be included in the EIS.

Table II.D.2 does not discuss wetland types, locations, amounts, or functions. The comparison table on page II-48 should reflect such information.

Gas Transportation

Pages IV-A-7 and IV-A-44 discuss TAGS (Trans Alaska Gas System) but make no mention the ANGTS (Alaska Natural Gas Transportation System), which does have current permits and could begin construction at any time. We recommend that the EIS be revised to include a discussion of the ANGTS.

Sand and Gravel Mines

Stipulations 34 and 40 discuss sand and gravel mines, yet the EIS does not identify any potential sources of sand and gravel or problems related to the availability of these resources. It is not possible to assess the effects to the environment from any of the alternatives without addressing the issue of how much gravel will be needed and where it is going to be mined. The consequent effects of these mines, which could potentially be measured in hundreds or thousands of acres destroyed, would represent long term effects that should be addressed in the EIS.